

OCT 03 2006

Certificate of Mailing/Transmission (37 C.F.R. § 1.8(a)):

[] Pursuant to 37 C.F.R. § 1.8, I hereby certify that this paper and all enclosures are being deposited with the United States Postal Service as first class mail on the date indicated below in an envelope addressed to the Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450.

[X] Pursuant to 37 C.F.R. § 1.6(d), I hereby certify that this paper and all enclosures are being sent via facsimile on the date indicated below to the attention of Examiner Fenn C. Mathew at Facsimile No (571) 273-8300.

Dated: October 3, 2006

Name of Person Certifying:

Printed Name:

Guy Cumberbatch

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Tiahrt

) Group Art Unit: 3764

5

Serial No.: 10/620,028

) Examiner: Fenn C. Mathew

Filed: July 14, 2003

)

10 For: OSCILLATORY RESISTANCE EXERCISE
DEVICE AND METHOD

)

)

)

MAIL STOP AMENDMENTCommissioner for Patents
15 P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

AFFIDAVIT OF LEIF K. TIAHRT UNDER 37 C.F.R. §1.132

20

1. I, Leif K. Tiahrt, declaration that all statements made herein of my own knowledge are true and that all statements made herein on information and belief are believed to be true.

25

2. I am a personal trainer with 15 years experience. I have been weightlifting for 30 years, and was a nationally-ranked amateur lifter for 6 years according to the National Physique Committee (NPC), and for a time held the rank of 20th in the world in the bench press for all weight classes.

30

3. I am a member in good standing of the American Council of Exercise (ACE) and International Dance and Exercise Association (IDEA).

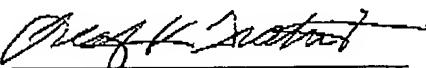
4. My long-standing experience in the field of weightlifting and work as a personal trainer qualifies me as "one of skill in the art" of the present invention. As such a skilled artisan, I am in a position to verify that there are no exercise machines on the market or of which I am aware that utilize oscillating resistance as presently claimed. The current state-of-the-art in weightlifting equipment

Serial No.: 10/620,028
Rule 132 Affidavit dated October 3, 2006

is crowded with machines of various configurations for exercising different parts of the body. Although there are machines for nearly every position of the user and range of motion of the body part being exercised, there are no machines which oscillate or fluctuate in force and/or direction.

- 5 5. I am aware that certain of the current claims stand rejected under 35 U.S.C. §102(b) anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over U.S. Patent No. 684,688 to Herz. I have reviewed the disclosure of Herz and verify that it discloses a cam-shaped pulley similar to present-day Nautilus-style pulleys that are designed for a particular range of motion of the user so that the effort always remains the same. Further, I see no recitation or suggestion of any oscillating resistive force.
- 10
- 15 6. I am aware that certain of the current claims stand rejected under 35 U.S.C. §102(b) anticipated by or, in the alternative, under 35 U.S.C. §103(a) as obvious over U.S. Patent No. 4,149,714 to Lambert, Jr. I have reviewed the disclosure of Lambert, Jr. and verify that it discloses a cam-shaped pulley similar to present-day Nautilus-style pulleys. Further, I see no recitation or suggestion of any oscillating resistive force.
- 20 7. I acknowledge that willful false statements and the like herein are punishable by fine or imprisonment, or both (18 U.S.C. 1001) and may jeopardize the validity of the application or any patent issuing thereon.

25 Date: 3 Oct 2006


Leif K. Tiahrt